

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-43677

James & Karen Lauer,

Debtor(s).

**NOTICE OF HEARING AND OBJECTION TO
CONFIRMATION OF CHAPTER 13 PLAN**

Michael Farrell, Chapter 13 trustee, by and through his undersigned attorney, hereby objects to confirmation of the Chapter 13 plan filed by Debtor.

1. The Court will hold a hearing on this motion at 10:00 a.m. on September 16, 2004, in Courtroom 8 West, United States Courthouse, 300 South 4th Street, Minneapolis, Minnesota.

2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on September 15, 2004, which is 24 hours (1 business day) before the time set for the hearing, or filed and served by mail not later than September 13, 2004, which is three business days prior to the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. Michael Farrell is the Chapter 13 trustee ("Trustee") of the Debtor in the above-referenced bankruptcy case. This case is pending before this Court.

4. This Court has jurisdiction over this matter under 28 U.S.C. Section 157 and 1334. This objection is brought pursuant to 11 U.S.C. §1324 and 1325, Bankruptcy Rule 3015 and Local Rule 3015. This matter is a core proceeding.

5. Debtors commenced this case by filing a voluntary Chapter 13 petition on July 1, 2004. Debtors filed a Chapter 13 plan on that date. The plan provides for monthly payments of \$375 for a period of 60 months resulting in a dividend to unsecured creditors of 27 percent.

6. Trustee objects on the basis that Debtors' plan does not submit all of his disposable income. Debtors testified that James has a part time job in security netting him an additional \$200 per month, which was not disclosed in the schedules.

WHEREFORE, Michael Farrell requests an order as follows:

- (A) Denying confirmation of the Chapter 13 plan; and
- (B) Granting any other relief the Court deems just and proper.

Hedback, Arendt & Carlson, PLLC

Dated: August 31, 2004

_____/s/ John A. Hedback_____
John A. Hedback, #142438
Attorney for Chapter 13 Trustee
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 436-3280
Attorneys for the Movant

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

James & Karen Lauer


BKY CASE NO. 04-43677

Debtor(s)

VERIFICATION

The Trustee verifies under penalty of perjury that the information contained in the foregoing motion is true and correct to the best of the Trustee's knowledge, information and belief.

Dated _____

A handwritten signature in black ink, appearing to be "My [unclear]", is written over a horizontal line.

In re:

James & Karen Lauer

Debtor(s).

I. STATEMENT OF FACTS

II. STATEMENT OF LAW AND ARGUMENT

Section 1325 provides that the Court shall confirm a plan if it meets certain requirements.

Disposable income is all income which is “not reasonably necessary to be expended... for the maintenance or support of the debtor or a dependant of a debtor...” (Section 1325(b)(2)(B)).

Hedback, Arendt & Carlson, PLLC

Dated: August 31, 2004

_____/e/ John A. Hedback_____
John A. Hedback, #142438
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 436-3280
Attorneys for Movant

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

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James & Karen Lauer

**UNSWORN DECLARATION FOR
PROOF OF SERVICE**

Debtor(s).

The undersigned, being an employee of Hedback, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with office address of 2855 Anthony Lane, St. Anthony, MN 55418, declares that on the date below, I served the following:

1. Notice and Objection to Confirmation of Chapter 13 Plan;
2. Memorandum;
3. Proposed Order; and
4. Unsworn Declaration for Proof of Service.

upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at St. Anthony, MN addressed to each of them as follows:

Office of United States Trustee
1015 US Courthouse
300 South Fourth Street
Minneapolis, MN 55415

JAMES & KAREN LAUER
ONE LOWELL CIRCLE
SARTELL, MN 56377

IAN TRAQUAIR BALL
12 S 6TH ST STE 326
MINNEAPOLIS, MN 55402

and I certify under penalty of perjury, that the foregoing is true and correct.

Dated: August 31, 2004

_____/e/ John A. Hedback____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-43677

James & Karen Lauer

**ORDER DENYING
CONFIRMATION OF
CHAPTER 13 PLAN**

Debtor(s).

This case came before the Court on the confirmation of Debtor's Chapter 13 plan. An objection to confirmation has been filed by Michael Farrell, Chapter 13 trustee. Appearances were noted on the record. Based on the file, record and proceedings herein,

IT IS HEREBY ORDERED: Confirmation of Debtor's Chapter 13 plan is hereby denied.

BY THE COURT

Dated: _____

U.S. Bankruptcy Judge